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5 Attorney for:
6 JONATHAN PARRA

7
8 **UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF WASHINGTON**
10 **(Honorable Salvador Mendoza, Jr.)**
11

12 UNITED STATE OF AMERICA,) NO. 1:19-CR-6069-SMJ-6
13 Plaintiff,)
14 vs.) MOTION *IN LIMINE*
15)
16 JONATHAN PARRA,)
17 Defendant.)
18

19 TO: Clerk, U.S. District Court, Eastern District of Washington; and
20 TO: Benjamin Seal, Assistant United States Attorney.
21

22 **COMES NOW**, Jonathan Parra by and through his attorney of record, Ken
23 Therrien, and submits the following Motions *In Limine*:
24

- 25 1. **Opinion testimony by any person who has not been previously identified**
26 **as an expert and who the Government has failed to previously provide**
27 **discovery pursuant to FRCP 16(G).**
28

29
30 MOTION *IN LIMINE*
31 Page 1

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1 Federal Rule of Criminal Procedure 16(G) provides in part as follows:

2
3 G. Expert witnesses – At the defendant’s request, the government must give to
4 the defendant a written summary of any testimony that the government intends
5 to use under Rule 702, 703, or 705 of the Federal Rules of Evidence during its
6 case-in-chief at trial ...

7 The summary provides under this subparagraph must describe the witnesses’
8 opinions, the basis and reasons for those opinions, and the witnesses’
9 qualifications.

10
11 Mr. Parra requests the Court prohibit any opinion testimony by any person who has
12 not previously been identified as an expert and/or who the Government has failed to
13 provide discovery pursuant to FRCP 16(G).

14
15 2. **Any statement from law enforcement regarding evidence or statements**
16 **alleged to be made by cooperating witnesses or confidential informants.**

17
18 Under the Sixth Amendment to the Constitution, the defendant has the
19 right to confront all witnesses against him. All out of the court statements by
20 non-testifying individuals should therefore be excluded.

21
22 3. **Mr. Parra requests that the Government be required to present all**
23 **statements it intends to introduce under FRE 801(d)(2)(E) at or before the**
24 **pre-trial conference so that the court can determine their admissibility**
25 **outside of the presence of the jury.**

26
27 4. **FRE 404(b) AND 609**

1 The defendant, Jonathan Parra, moves the Court for an order prohibiting the
 2 government from introducing or attempting to introduce evidence of prior convictions
 3 or bad acts without first complying with the FRE 404(b) and 609. At this time
 4 discovery requests pursuant to 404(b) and 609 have been made. Defendant Jonathan
 5 Parra requests an opportunity to be heard prior to the introduction of such evidence.

6
 7 **5. Prohibiting Government from Vouching for the Credibility of**
 8 **Government Witnesses.**
 9

10 "[A] prosecutor may not express his opinion of the defendant's guilt or his
 11 belief in the credibility of government witnesses." United States v. Sanchez, 176 F.3d
 12 1214, 1224 (9th Cir. 1999) (quoting United States v. Molina, 934 F.2d 1440, 1444
 13 (9th Cir. 1991)). "Attempts to bolster a witness by vouching for his credibility are ...
 14 improper if the jury could reasonably believe that the prosecutor indicated a personal
 15 belief in the witness' credibility." United States v. Eyster, 948 F.2d 1196, 1206 (11th
 16 Cir. 1991). A petitioner must be granted a new trial where the remarks "so infected
 17 the trial with unfairness as to make the resulting conviction a denial of due process."
 18 See Donnelly v. DeChristoforo, 94 S.Ct. 1868 (1974).

19
 20 **6. Testifying witnesses should be excluded from the courtroom under FRE**
 21 **615.**
 22

23 The Defendant requests that all witness be excluded from the courtroom until
 24 they are excused from service, pursuant to FRE 615. Should the law enforcement
 25 agent chosen by the Government to sit at counsel's table during the trial be a
 26 percipient witness, the Defendant would ask that case agent's testimony be taken
 27 first, so as not to violate the spirit of FRE 615. See *United States v. Valencias*
 28 *Riascos*, 696 F.3d 938 (9th Cir. 2012) ("good practice to require case agent witnesses
 29 to testify first").

1
2 **7. Leave to file additional motions in limine.**

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4 The Defense hereby reserves the right to file additional motions in
5 limine should the need arise prior to the trial.

6
7 DATED this 02nd day of March, 2020.

8
9 /s/ Ken Therrien
10 Ken Therrien, WSBA # 20291
11 Attorney for Jonathan Parra
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22 **CERTIFICATE OF SERVICE**

23
24 I hereby certify under penalty of perjury of the laws of the State of Washington that on
25 March 2, 2020, I electronically filed the foregoing with the Clerk of the Court using the
26 CM/ECF System which will send notification of such filing to the following:

- 27
 - Benjamin D. Seal, Assistant United States Attorney

s/ Ken Therrien

KEN THERRIEN, WSBA #20291

Attorney for Jonathan Parra

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